

BAR BULLETIN

PUBLISHED BY THE LOS ANGELES BAR ASSOCIATION

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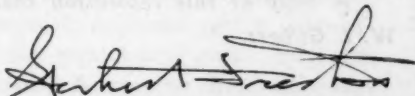
A Christmas Greeting to Our Members

A BRIEF item in the daily press under a European date line of a few days ago reminds us that Christmas Day in Europe this year is but another day on the calendar. As one reads that statement his thoughts are projected toward the great struggle now threatening to envelop the world—a struggle in which Democracy and Freedom may be listed as two of the early victims. Little wonder that in the countries scourged by war and aggression the Christmas tradition of more than a thousand years has been listed as just another casualty.

Let us hereby highly resolve that it shall not happen here. Let us at this Christmas time take inventory of our cherished institutions and express our deep and profound appreciation for the great vision and wisdom of our forefathers whose immortal monuments, the Constitution and the Bill of Rights, have kept us free.

You, the members of the Los Angeles Bar Association, in pursuance of your daily endeavors as members of an ancient and honorable profession, are doing your bit toward the continuance of an ordered Democracy. You, who are members of the great Judiciary of this State, are serving Democracy steadfastly and well in insisting upon that degree of judicial independence without which the words "due administration of justice" are empty and meaningless.

I take this opportunity to thank all of you for the gracious cooperation you have given your Association and its officers during the year 1940, and to wish you and each of you sincere Christmas Greetings and much happiness and success in the year 1941.



PRESIDENT.

RESOLUTION OF THE LOS ANGELES BAR ASSOCIATION
UPON THE DEATH OF W. I. GILBERT



For the purpose of perpetuating the memory of, and recording our affectionate esteem for, W. I. Gilbert, a distinguished member of the Bar of California, who departed this life on November 27, 1940, the trustees of the Los Angeles Bar Association adopt this resolution.

W. I. Gilbert was born at Martinsville, Missouri, August 8, 1876. He was admitted to the Bar in Oklahoma in 1895, and thereafter became the first president of the Oklahoma Bar Association.

He moved to Los Angeles and was admitted to the Bar in California in 1913, since which time he has graced the citizenship of this community as a successful and justly honored member of our profession.

Eminence in forensic ability, excellence in scholastic achievement, strength in the virtues of good character, and warmth of cordiality toward all mankind, combined to win for W. I. Gilbert the admiration and affectionate regard of all who knew him, and established him as a distinguished leader in the legal profession.

His physical presence has passed. The parting saddens our hearts, but the memory of a great advocate and a good friend persists as an inspiration to us to emulate his qualities.

To the members of his family we express our abiding sympathy and the hope that in reflection upon the honorable achievements of our departed brother, consolation may be found in this hour of sorrow.

A copy of this resolution shall be forwarded to the family of W. I. Gilbert.

WHAT SHALL WE DO ABOUT IT?

ANY member of the Bar so inclined may turn the dial of his radio to Station KFI (650 kilocycles) at 9:00 o'clock any Thursday evening and hear a comedy program entitled "P D Q Quiz Court." The P D Q Quiz Court, as its name implies, seeks to entertain radio listeners through quizzing selected members of the public. But the obvious primary purpose is to promote the business interests of the sponsor by enhancing sales of the sponsor's petroleum products. A unique feature is the broadcast of the comedy skit from the stage of a downtown theatre in presence of the theatre audience. The persons interrogated are chosen from the theatre audience by the "Bailiffs" of the Quiz Court. The leading comedian is the Judge of the Quiz Court. And the whooping-it-up announcement of the "Clerk" proclaims the startling fact that by day-time this radio comedian sits as a Judge of the Los Angeles Municipal Court.

Canon 4 of the Canons of Judicial Ethics says:

"A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach."

By Canon 13 every Judge is admonished that:

"... he should not suffer his conduct to justify the impression that any person (not even a radio sponsor) can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position or influence of any party or other person."

And by Canon 24 that:

"He should not accept inconsistent duties; nor incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions."

And by Canon 32 that:

"He should not accept any presents or favors from litigants, or from lawyers practicing before him or from others whose interests are likely to be submitted to him for judgment."

Canon 34 summarizes the judicial obligation thus:

"In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appointments as a public trust; He should not allow other affairs or his private interests to interfere with

the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity."

In keeping with these canons, the Committee on Professional Ethics and Grievances of the American Bar Association has held it to be improper for a Judge even to conduct a newspaper column of comment on current news items and matters of general interest (see Opinion 52).

Later, in Opinion 105, it was held improper for a Judge of a Superior Court, when seeking election or appointment to the Appellate Court, to solicit by letters or otherwise the aid and endorsement of attorneys. (To the same effect, see Opinion 139.)

The same Committee held, in Opinion 113, that:

"It is ethically improper for a judge, not a candidate for office, (1) to appear at political meetings and either speak in general terms or otherwise indicate his support of the candidate sponsored by the meeting; (2) to approve a practice on the part of his wife, or that of bailiffs and other court attaches who are under his influence, of making substantial financial contributions to political party funds; or (3) to approve the giving by his wife of political teas at their home to advance the candidacy of partisan nominees for political office."

In Opinion 189, the Committee said:

"A judge should not use or permit others to use the power or prestige of his judicial office to promote his candidacy for reelection or to further the success of a political party."

(To the same effect, see Opinions 193 and 195.)

In Opinion 166, dealing with the propriety of Judges participating in a "Good Will Court" program for nation-wide broadcast, the Committee significantly observed:

"The fact that the judge gives the money he receives for his part in the performance to some worthy charity does not condone the improper practice."

On June 5, 1940, the Board of Trustees of the Los Angeles Bar Association unanimously adopted the following resolution:

"WHEREAS, Canon 25 of the Canons of Judicial Ethics of the American Bar Association declares, with respect to the conduct of every judge, that:

"He should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; he should not solicit

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for charities, nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties.'

and

"WHEREAS, it has come to the attention of the Board of Trustees of the Los Angeles Bar Association that one of our local judges is engaged as an actor on a weekly radio program which is broadcast from the stage of one of the local theatres; and

"WHEREAS, the members of the Board of Trustees, at the regular meeting held on May 29, 1940, listened to a transcription of one of said radio programs; and

"WHEREAS, it appears that said broadcast is sponsored and maintained by a business concern for the purpose of selling its products and otherwise promoting its business interests; and

"WHEREAS, it appears that the name of said judge and the fact that he is a judge of one of our local courts is announced during the course of the broadcast, and said judge is referred to as 'Your Honor' frequently throughout the program:

"NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Los Angeles Bar Association does hereby condemn such conduct on the part of any judge as a clear violation of the provisions of Canon 25 of the Canons of Judicial Ethics of the American Bar Association, and does hereby request the judge in question to cease forthwith 'using the influence of his name to promote the business interests of others,' either by discontinuing entirely his participation in said radio program, or by causing the sponsor, the announcers, the advertising agency, and all others in charge of said program to refrain from using his name or the name or title of his judicial office, directly or indirectly, in any way or manner; and

"BE IT FURTHER RESOLVED that a copy of this resolution be sent to each of the judges of the Los Angeles Superior Court and to each of the judges of the Los Angeles Municipal Court."

A copy of this resolution was sent to each of the judges. At that time the Municipal Judge in question had been acting as radio comedian on the Quiz Court program for several weeks. Today, almost six months later, that judge continues his efforts as a radio comedian, in utter disregard of the canons of judicial ethics.

In the so-called *Hardy case* (*State Bar v. Superior Court*), 207 Cal. 323, 340; 278 Pac. 432 (1929), the Supreme Court held that judges of our courts of record are not members of The State Bar and hence are not subject to the disciplinary provisions of The State Bar Act.

By his conduct, the radio comedian, Municipal Judge, has posed the question "What are you going to do about it?" The question is worth repeating: "What are we going to do about it?"

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BAR LECTURE COURSE FOR 1941

FOR the fourth successive year, the Los Angeles Bar Association has arranged a series of lectures for lawyers. Commencing January 14, 1941, the course, consisting of 15 lectures, will run to May 20, 1941. Men eminent in their own field of specialized practice, some of whom have lectured in previous courses, and all of whom are well known to the lawyers of Los Angeles County, are giving their services in furtherance of the educational program of the Association.

Edison Auditorium, in the Edison building, Fifth street and Grand avenue, will be the lecture hall. It is conveniently located for the accommodation of those who register for the series.

Following is the program:

<u>MONTH</u>		<u>LECTURES GIVEN BY</u>	<u>SUBJECT</u>
Jan.	14th 21st	DAVID TANNENBAUM " "	Death and Succession Taxes With Special Reference to Life Insurance Benefits.
Feb.	4th 11th	JOSEPH BRADY " "	Problems in Income Taxation Including a Discussion of the Excess Profits Tax Act.
	25th	ALVIN P. JACOBS	Federal and State Gift Taxation and Their Practical Importance.
March	4th	" "	
	11th 18th	JULIUS PATROSSO " "	Preparation of Leases and Some Practical Problems of Landlord and Tenant.
April	8th 15th 22nd 29th	PROF. WILLIAM BURBY " " " " " "	Problems and Trends in Community Property Law.
May	6th 13th 20th	WALTER NOSSAMAN " " " "	Recent Decisions and Important Trends in the Law of Trusts and Powers.

REGISTRATION FEES

\$12.00 for entire course.

1.50 per single lecture, subject to available seats.

15.00 nonmembers.

2.00 per single lecture.

David Tannenbaum, who has lectured in previous series on different subjects, is a well known specialist in tax matters.

Joseph Brady, also a lecturer in the earlier series, is widely known as a specialist on income and other taxes.

Alvin P. Jacobs is Assistant Inheritance Tax Attorney of the State of California. He will discuss Federal and State Gift Taxes and their practical importance.

Julius Patrosso is a recognized authority on Preparation of Loans and the practical problems of Landlord and Tenant.

Prof. William E. Burby, who will deliver four lectures, is Professor of Law at University of Southern California, and

Walter Nossaman, well known specialist, is Trust Counsel for Security-First National Bank.

The registration fee will be \$12.00 for the entire course, or \$1.50 for a single lecture, subject to available seats.

For nonmembers of the Association the registration fee is \$15.00, or \$2.00 for a single lecture.

Admission cards will be issued and sent to all registrants.

The lectures are arranged and supervised by the Committee on Education and Public Information, which has had charge of the three previous series. The personnel of the committee is as follows:

Harry J. McClean, General Chairman, Committee on Education and Public Information; David Tannenbaum, Vice-Chairman in charge of Law Lectures; George E. Farrand, Joseph Musgrove, Ralph Lindstrom, Hon. Lester W. Roth, Kryne Van den Akker, Stevens Fargo.

THE JANUARY MEETING

THE January meeting of the Los Angeles Bar Association will be held on the evening of January 9, 1941, at the University Club. As customary the Junior Barristers will be in charge of this meeting.

The Junior Barristers announce that those who passed the recent bar examination will be guests and that the speaker of the evening will be the Honorable Phil Gibson, Chief Justice of the Supreme Court of California. Harold Schweitzer, President of the Junior Barristers, will briefly summarize the activities of the Junior Barristers.

The January number of *The Bar Bulletin* will also be under the supervision of the Junior Barristers. It will contain unusual features of interest to all members.

If you would see the young fellows show the old fellows how to do it, plan to come.

OPEN LETTER TO MEMBERS OF STATE BAR COMMITTEE ON LEGAL PUBLICATIONS

By Maurice Saeta, of the Los Angeles Bar

YOU are to be commended upon the fine piece of work done in reducing the price of State Reports and Advance Decisions. It is to be hoped that you will not stop at this point but will courageously follow through wherever the subject logically and irresistably may lead you. You may wind up in strange places as did the Los Angeles Bar Association Committee on Law Reporting, of which the writer was chairman. We started in 1932 to investigate the high cost of bound volumes and advanced decisions, and after conscientious work of several years made a number of recommendations, one of the most important being the curtailment of written opinions—a far cry from our original objective! An examination of the report of our committee may throw some light on the following closely related subjects such as, uniform pagination, delay in publication of bound volumes and the rehearing rule. Our committee also found that the subject was of state and not of local concern, and would best be handled by the State Bar. That was in 1934, and there the matter lay until your committee revived the whole subject.

A continuation of the efforts of your committee will reveal that the subject does not end with reducing the cost of bound volumes since this is dealing with effects and not with causes. If you are interested in economies for the lawyer why not go one step farther and cut down the number of State Reports. There is no immutable law which fixes the number of yearly bound volumes. This should be subject to change as much as price. To reduce the number of volumes would mean a direct saving to the lawyer not only in the cost per volume, but of library space and room rent. Consider the bound volumes of written opinions published in California between the years of 1926 to 1932, consisting of 8843 decisions and 53,538 pages. There is ample authority for cutting down this overwhelming outpouring of Appellate Courts. In commenting on this phenomenon Justice McReynolds of the United States Supreme Court said, "In my view, multiplied judicial utterances have become a menace to orderly administration of the law. Much would be gained if three-fourths (maybe nine-tenths) of those published in the last twenty years were utterly destroyed. Thousands of barren dissertations have brought confusion, and often contempt. . . . Hurried opinions and long dictated ones, when not laboriously revised, generally have no proper place except in the wastebasket."

Supposing instead of the nine fat volumes per year which today find their way onto our shelves, we only had three. Think of the indirect saving that would result, the time and energy saved in research by Bench and Bar! Were our Appellate Courts given discretionary power in writing opinions instead of being required to do so, think of the judicial energy released for other purposes. Our courts would have more time to confer and discuss cases while oral argument was fresh in their minds. Fewer and better opinions would result and they would be more expeditiously rendered than at present. As to the value of prompt decisions Justice Frankfurter of the United States Supreme Court said, "For expedition in decision is as much a condition as an end of justice. Judgments are surer and opinions more accurate if they proceed from minds

freshly informed by oral argument. The strain of an unmanageable load of business destroys the serenity of spirit essential to the painful process of hard thinking on which are dependent wise decisions embodied in closely knit opinions."

You may find, as our committee did, that the problem of reducing the number of written opinions is somehow inextricably bound up with the question of court congestion. I hope that you will come to grips with that problem and that you will offer us a novel solution,—not the creation of more judgeships, a suggestion offered by Samuel M. Wilson in 1879 and urged by lawyers every year since. In 1934, this writer said, "Hitherto the method of meeting the problem of a congested Appellate Court has been by increasing the man power, but it seems as if the credulity, the purse and the patience of the taxpayer has been reached. Any such solution in the future is bound to meet with well-merited contempt. If we are going to ask for public support, we must first show our good faith, that we have sincerely tried to improve the procedure and have exhausted all means of relieving the courts of unnecessary burdens, one of which is the necessity of written opinions." This would seem to hold true today.

Our committee ultimately found itself grappling with the problem of Appellate Court congestion,—a far cry from reducing the costs of bound volumes! As to where your committee will ultimately land, time alone will tell, but we shall eagerly await the results of your investigation with open minds. You have a great responsibility as well as a fine opportunity; your personnel commands our confidence and your work thus far our thanks. I know you will not let us down!



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RESOLUTION—BOARD OF TRUSTEES LOS ANGELES BAR ASSOCIATION

ADOPTED NOVEMBER 20, 1940

WHEREAS, in aid of the national defense program, many members of the Bar of Los Angeles County are entering upon periods of active service in the armed forces of the United States; and

WHEREAS, such service, in most cases, calls not only for an actual financial sacrifice in income, but also entails the additional economic hazard of loss of practice upon return from service; and

WHEREAS, it is the duty of both the members of the Bench and the Bar, in aid of the national defense program, to assist in every practicable way those of our profession who enter active service;

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Los Angeles Bar Association hereby empower and direct the President of the Association to appoint a special committee to be known as "The Committee to Co-operate with Lawyers entering the Service;" and

BE IT FURTHER RESOLVED that it shall be the duty of such Committee to advise and co-operate with all members of the Bar of Los Angeles County who shall enter active service in aid of the defense program for the United States, with a view to minimizing in every feasible way the financial sacrifice necessarily entailed by such active service, and, in particular, to the end that the absence of all such members from the activities of their profession shall not result in any unnecessary loss of practice or clientele.

Following is the committee appointed under the resolution: Norman A. Bailie, Chairman; Herbert L. Hahn, Frank M. Moody, Julius V. Patrosso, Arthur L. Syvertson, James E. Pawson, Frank C. Weller,

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COMMITTEE TO CONSIDER LEGAL AID TO REGISTRANTS FOR SELECTIVE SERVICE

By Patrick Henry Ford, of the Los Angeles Bar

THE Los Angeles Bar Association has already taken steps to furnish free legal service to draft registrants and their families. Many such persons do not know where to turn for help on their problems. The draft and advisory boards have referred such problems to the Bar Association.

Pursuant to this increasing demand and to the suggestion of the American Bar Association, the Board of Trustees adopted the following resolution on November 13, 1940, setting up a committee to do the needed work:

"WHEREAS, the first quota of registrants is about to be inducted into training under the Selective Service Act, as a part of our program of national defense; and

WHEREAS, Selective Service Regulation No. 145 requires the governor of each state to appoint advisory boards which 'shall normally be composed of three lawyers' with a chairman who 'shall if practicable be a judge of a county court or of a court of similar jurisdiction' and which 'may appoint associate members,' the purpose being 'to insure that advice and assistance in preparing questionnaires, claims, etc., are readily available to every registrant'; and

WHEREAS, such advisory boards have now been appointed for Los Angeles County; and

WHEREAS, persons enrolling in the armed forces of the United States are today likely to be confronted with many legal problems, including those arising under the Soldiers and Sailors Civil Relief Act of 1940, in addition to those arising under recent legislation relating to Social Security, Employment Control and the like, as well as typical problems of a personal or domestic nature; and

WHEREAS, the advisory boards for registrants under the Selective Service Act must serve gratuitously in all cases, and the nature and extent of their duties is such that it would be an imposition to expect the members of such boards to give free advice to registrants in connection with other matters than those contemplated by the provisions above quoted from Selective Service Regulation No. 145; and

WHEREAS, it is of the utmost importance that there be made available to all registrants for selective service, who are without the means to pay for the services of a lawyer free counsel in connection with all matters not falling within the scope of the services of the advisory boards; and

WHEREAS, the American Bar Association has appointed a Committee on National Defense which is maintaining headquarters in Washington, and is being advised with respect to problems arising under the Selective Service Act by a group of officers assigned from the War and Navy Departments and the Department of Justice and other branches of the Government; and

WHEREAS, it is desirable that a high degree of co-operation be established and maintained between the Committee on National Defense of the American Bar Association and the various local advisory boards;

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees of the Los Angeles Bar Association does hereby empower and direct the President of the Association to appoint a special committee to be known as 'The Committee to Co-operate with the Legal Aid Foundation in behalf of Registrants for Selective Service'; and

BE IT FURTHER RESOLVED that it shall be the duty of such Committee to advise and co-operate with the Los Angeles Legal Aid Foundation, the local advisory boards of Los Angeles County, and the Committee on National Defense of the American Bar Association on all questions relating to free counsel required by registrants for selective service in connection with matters not within the scope of the duties of the advisory boards; and

BE IT FURTHER RESOLVED that the Board of Trustees of the Los Angeles Bar Association does hereby request the co-operation of all members of the bar of Los Angeles County, to the end that no person entitled to the benefits of the Soldiers and Sailors Civil Relief Act of 1940, and without the means to pay for the services of a lawyer, shall suffer unjust denial of any legal right or unjust deprivation of any legal remedy by reason thereof."

President Herbert Freston has appointed the following committee: Chairman, Col Andrew J. Copp, Jr.; Secretary, Jay J. Stein; John Kerns Bennett; George B. Gose; G. R. Dexter; Charles L. Blek; Patrick Henry Ford; Frank Wickhem; and Henry J. Sullivan.

The first meeting of the committee was held at the Association office in the Rowan Building on Thursday, December 5. In addition to the members present, were Mr. Herbert Freston, President of the Association; Mr. J. L. Elkins, the Executive Secretary; and Mr. Edwin F. Franke of the Legal Aid Foundation. There was a general discussion of the work and purpose of the committee, a brief review of the problems which arose during the first World War was given by Colonel Copp, Chairman of the committee, and by Mr. G. R. Dexter, of Beverly Hills. President Freston told the members that no one could predict just what problems would be referred to the committee, but warned that the Draft and Advisory Boards had been calling him constantly in order to get aid from the bar. Mr. Franke outlined the procedure followed at the Legal Aid Clinic in determining which applicants were entitled to free legal services. The Legal Aid Clinic, he said, has decided to furnish advice under the Draft laws, but cannot undertake the added burden of preparation of legal documents and appearances in court.

The committee members will undertake to familiarize themselves with certain laws and cases called to their attention by Colonel Copp. Mr. John Kerns Bennett was assigned to prepare a questionnaire to be filled out by applicants for these services. The committee will meet on the call of the chairman and new members will be added as the amount of work it handles increases, according to President Freston.

ACTIVITIES OF JUNIOR BARRISTERS

By Hudson B. Cox, of the Los Angeles Bar

WITH the advent of one of the last months of the Junior Barristers' year, for January will witness the annual election meeting and change of officers, the organization is in full swing down the home stretch.

Friday, December 6th, found a large turnout at the Doctor-Lawyer's stag party, held this year in the ballroom at the Elks' Club. In all there were one hundred and sixty-four Junior Barristers and young doctors in attendance and between the very excellent dinner, the timely witticisms of Judge Leroy Dawson, who was in his best form as Master of Ceremonies, and an hour and a quarter of topnotch entertainment this annual stag party was voted one of the best in years. Credit is due Stanley Gleis and Dr. Robert Moes who handled all arrangements for the young lawyers and doctors respectively.

The January dinner meeting of the Los Angeles Bar Association has been turned over to the management of the Junior Barristers and they have decided to dedicate the meeting to the *Alpha* and the *Omega*, the princes and the paupers, if you like, of the California profession. Honored guests will be the members of the State Supreme Court and, in addition, all this year's new admittees to the Bar. In order to accommodate the Calendar of the Court the meeting will be held earlier in the month than usual, on Thursday night, January 9th. Mr. Harold

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MAIN OFFICE, SPRING STREET AT FIFTH

Schweitzer, chairman of the Junior Barristers, will preside and in a brief outline of the aims, purposes and accomplishments of the organization will acquaint new admittees of the worthwhile efforts of the junior section of the Los Angeles Bar. Members of the Supreme Court, several of whom have been recently appointed to their present high post, will be introduced and an excellent opportunity afforded the Los Angeles Bar Association to meet the new Court as now constituted. Mr. Chief Justice Gibson has consented to be speaker for the occasion and though the topic of his talk is as yet unannounced, it will be eagerly awaited by the Association for neither Mr. Justice Gibson's learning, nor his ability as a speaker are unknown to Los Angeles lawyers.

Toward the end of January and probably upon the last Thursday or Friday of the month the annual election meeting of the Junior Barristers will be held and unless the incumbent chairman emulates the precedent established this year in the country's highest elective office we may expect to see a new group of men take over the administration of the organization for the next year. Already the first gentle zephyrs of the impending campaign storm can be felt.

The Radio Committee under the chairmanship of Gordon Files has been diligent in presenting each week a new chapter in its "Lawyer's Story Book" series. On November 21 Mr. Peter Knecht, bailiff and research associate in the Appellate Department of the Superior Court told "Some Stories of the Little Man's Court." The following Thursday, Mr. Leslie Tupper related an interesting account of a trial in Boston during colonial days, his story being entitled "The Boston Massacre and Trial of British Soldiers for Murder." On December 5th John C. Morrow related a story of the law, "Human Jettison." Most will remember the story of this celebrated trial, *People v. Holmes*, from law school days, raising the question whether it is justifiable homicide to sacrifice the lives of some in order that others may be saved. As related by John Morrow, his radio listeners well sensed the dilemma with which not only the defendants but justice itself was faced. On December 12 Walter I. Martin betook himself from his sick bed in which he had been laid by the current 'flu epidemic to present his story, "Excerpts from the Life of an Honest Man," over Station KFAC at the appointed time.

The Legal Aid Committee has been continuing to lend valuable assistance to the overburdened Legal Aid Foundation. Jerome Stewart was in immediate charge of the work of supplying volunteers during the month of November, and Louis Sterry, Chairman of the Committee, took over for December. The Legal Aid Foundation has found itself more than usually overworked in the last few weeks through the assistance they have been called upon to render to registrants under the Selective Service Training Act.

The next January issue of the BULLETIN is to be prepared and edited by the Junior Barristers and Leslie Tupper, Chairman of the Junior Bulletin Committee, advises that the whole issue will be dedicated and devoted to the Supreme Court of the State. It will contain articles and stories upon the early history of the Court, its growth and development, and in addition there will be brief but interesting biographical sketches upon the justices now constituting the Court.

Although the place may be none too appropriate, because we doubt if many are in the habit of plowing through this monthly article to the bitter end, the Junior Barristers nevertheless wish here and now to extend to all members of the local bench and bar cordial Christmas greetings and best wishes for a happy, prosperous and peaceful 1941.

NOMINATIONS FOR BAR ASSOCIATION OFFICERS AND TRUSTEES FOR 1941

THE committee of fifteen lawyers, chosen in open meeting of the members of the Los Angeles Bar Association on November 26, to nominate candidates for officers and trustees for 1941, has made the following nominations:

President, John C. Macfarland;
Senior Vice-President, George M. Breslin;
Junior Vice-President, William C. Mathes.

For the four positions of Trustee to be elected from the active membership of the Association: Leon T. David, Alex W. Davis, George W. Dryer, Warren Libby, Harry J. McClean, Walter Nossaman, David Tannenbaum, Edward R. Young.

To fill two vacancies as Trustees representing affiliated bar associations: Lloyd W. Brooke, Pasadena Bar Association; Moe M. Fogel, Santa Monica Bar Association.

At the November meeting of members an amendment to the by-laws was adopted which provides that at least two nominations shall be made for each office of trustee from the active membership, and one affiliated member for each position of trustee to be elected from the affiliated membership.

Therefore, the ballot to be sent to members on December 31, will carry the names of eight nominees from the active membership. The four nominees who receive the highest vote will be elected to fill the four vacancies on the board; and the two nominees from the affiliated membership will have no opposition unless additional nominations are made by petition before December 15.

The ballots will be counted on January 15, 1941, and the new officers and trustees will take office on the fourth Thursday in February, 1941.

The Nominating Committee was composed of the following: Hiram E. Casey, John J. Ford, Kenneth N. Chantry, Oscar A. Trippet, Forrest A. Betts, Ray L. Chesebro, Stanley N. Barnes, Robert P. Jennings, Allen W. Ashburn, Grant B. Cooper, James L. Beebe, Jack W. Hardy, H. Sidney Laughlin, W. Joseph McFarland, Charles E. McDowell.

DIGGING POTATOES. A Florida lawyer goes overboard with the dire statement that the American Bar will be found "groveling on the hill sides, planting and digging potatoes; perhaps begging for clothes"—if Hitler wins! Some of the boys say we won't have to wait for Hitler to win. Especially as Santa Anita opens soon.

INSTITUTIONAL CARE OF BOYS IN CALIFORNIA*

THERE are three state schools in California: Ventura for girls, Whittier for boys fifteen and under, and Preston for boys fifteen and over. Whittier can accommodate about four hundred boys and Preston can care for about seven hundred. We shall consider the boys' schools only at this time on the basis of Los Angeles Juvenile Court experience.

These questions naturally occur to us when we speak of state schools: (1)—What kind of boys are sent there; (2)—Why are they sent there; (3)—What do they do while they are in the school; (4)—What effect does it have on the boy; (5)—How does it effect the community; (6)—Is there any better plan that could be followed.

In the first place it must be conceded that boys committed to the state school are a residual group. That is to say, they are boys who because of their inability to make a satisfactory social adjustment in the community must be segregated, because if they remain longer in the community they become a menace to themselves or to others.

Speaking first of the younger group, Whittier is resorted to only in the extreme case. When you realize that Los Angeles County has a population of two and three-fourths millions and that from this county we now have in the Whittier State School a total of 121 boys, it is apparent that we have used this school only as a last resort. Of this total group from Los Angeles who are now in Whittier, 18 are Negro, 44 are Mexican, and 59 are White and other groups.

When a boy comes into the juvenile court we immediately set out to discover not only that he has done that is contrary to law or morals, but also why he did it, and obtain from our juvenile court clinic a recommendation concerning the course of treatment to be followed so that, if possible, the boy may be restored to normal, acceptable living.

In a very large number of cases we find that the homes are unfit, with one or both parents alcoholic and, in many cases, mentally defective or psychotic. Many homes are broken and the remaining parent must be absent at work, leaving the child unsupervised during his leisure hours. In every case we endeavor to return the younger child to his own home believing that if the community resources can be drawn upon to provide adequate stimuli inducing good conduct it is better for the child and the community.

The inadequate home, however, offers little opportunity for the child to mend his ways, and boarding homes must be resorted to. For white American boys these are available. In many cases where we have placed Mexican and

*A portion of an address delivered November 4, 1940, by Superior Judge Robert H. Scott, presiding in the Juvenile Court, Los Angeles, California.

Negroes in boarding homes they have not made a satisfactory adjustment in the new community and in the school which they are required to attend. The effort has been to reconcile the desires of the court to rehabilitate these problem youths, and the very reasonable and proper desires of the respective communities to exclude children who would constitute a menace to their peace and order and might lead other well-intentioned children into commission of improper acts. In any event we go as far as we can in using boarding homes because they provide the best substitute for normal homes. Experience shows that this certainly is the wise thing to do, especially in the case of younger boys.

There are a very limited number of private institutions where we can send these lads. Pacific Lodge at Girard, the California Junior Republic at Chino, and the Rancho San Antonio operated by the Catholic Big Brothers, are willing to accept those of normal mentality whose offenses have not been too serious but they are not equipped to care for Negroes nor for Mexicans except in a few instances. Private schools which accept the psychotic or defective delinquents are so few as to offer little help to the court in its problem of caring for a large number of lads whose delinquencies are definitely attributable to mental inadequacy, but whose intelligence is just a little too high to qualify them for Pacific Colony, or whose psychotic tendencies do not constitute legal insanity.

To Whittier, then, we send these lads who cannot adjust in boarding homes, who persistently run away and commit further offenses of burglary, grand theft, felonious assault, rape and sodomy; boys in most cases whose own homes and parents are weak or vicious, boys who have been rejected for placement in private institutions because of their race, mental condition, or the serious nature of their offenses, and then, having concentrated lads with all of these handicaps in one institution, we expect them to be changed by a brief course of training into wholesome and socially acceptable citizens! What right have we to expect that they will succeed? How many of us would want a child of ours to be placed in such an environment? Why should we as a court or a community assume that this theory of treatment is efficient, economical, or even humane? So much for the younger boys.

As to the older boys who are sent to Preston, the situation is similar with the following exceptions: (1) some boys fifteen and over who are committed to Preston have already had a course of training at Whittier and have thereafter failed to make good; (2) other boys have been placed in forestry camps in Los Angeles County operated by the probation and forestry departments and have either run away and committed further felonies or have completed their courses and upon returning to the community have been guilty of further offenses; (3) others of this older group are committed for offenses which because of their serious nature demand state school placement.

For example, a burly youth with his companions set out early one evening, hailed a taxicab and had the driver drive him to an isolated street, held him up at the point of a gun and told him to go on his way. Four such holdups occurred during the night and the boys were apprehended when the cab which they called for the fifth holdup was driven by the victim of one of their previous crimes. That young man was committed to Preston, and his companions have received comparable treatment. These then are the types of boy who go to Preston. There are 246 boys in that school at this time from Los Angeles County.

The next question is, "What do they do when they get to Whittier or Preston?" The program is not much different than many private schools; academic courses, farming or gardening, trade instruction, routine labor, athletics, social times, religious teaching, and as little free time as possible. The dormitories are clean and sanitary and the newer buildings are not unattractive. The school equipment in many cases is not modern. On the whole, however, the physical set up of our state schools and the program they seek to offer is satisfactory. The personnel are underpaid and too often are not equipped with education or personality adequate to confer much benefit on these boys. The state pays such low salaries that for the most part we are compelled to accept those whose inadequacy must be overlooked. By the provisions of the state civil service the removal of a state employee for inefficiency is difficult. It is unnecessary to discuss the much publicized conditions at Whittier. The situation at Preston has been handled with success due to the unusually fine ability and interest of Superintendent O. H. Close as an administrator and educator.

In all fairness we should bear in mind the fact that when these schools were established conditions were vastly different than they are now. Many of the boys who in former years were sent to Whittier, were underprivileged lads who needed sympathetic interest and help, but whose problems were not so complex that they required herculean efforts and unusual talents to adjust them. Lads

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of this group are not sent to the state schools now. They are cared for in boarding homes, private institutions and forestry camps. In recent years we have concentrated in these state institutions boys who have failed to respond to every other type of program and environment that we can provide; whose offenses are so serious as to reveal them as a social menace or whose racial or mental characteristics or family background constitute a severe handicap to their success under any conditions, and then provide a program no more adequate than that which was available in the community from which they were sent, a program which is administered by men and woman who for the most part are no better equipped than those who have previously dealt with them. With the companionship of other unadjusted youths, with the irritation of custodial restraint, with a sense of shame which such a commitment in most cases involves, we expect these lads to emerge, after a year or so, competent to meet and overcome the difficulties of poor homes and community temptations which are usually as bad or worse than they were when the placement was made. It sounds stupid and it is stupid! But it is the best we have at the present time and of course is immeasurably better than the indefensible anachronism of our adult prisons.

In spite of all the limitations just recounted, about one-third of the boys we send to Whittier and two-thirds of the boys we send to Preston from Los Angeles County get some good out of the program and return to their homes and the community able and willing to be good and worthy citizens. Credit for this is due to many of the staff of these schools, who are sympathetic and earnest and do the very best they can to help these boys make good. Teachers devote endless hours and infinite pains to instruct them in trades. Moral and ethical teachings, of which they had never heard, are provided, and better fit them to hold jobs. If a boy can complete a course of training which fits him to secure steady work that he enjoys, he usually settles down and behaves himself. The regularity of the life in the state schools helps many of them over that difficult growing-up period when impulses overpower inhibitions. Many boys naturally outgrow their so-called delinquency. We cannot ignore the fact that divine inspiration sometimes comes from unrecognized sources to change the attitude and thoughts of youth from selfishness and evil to good. Some lads, who have to be sent to the state schools because of the seriousness of offenses impulsively committed, recognize their mistakes even before they are sent, willingly submit to the program and discipline, and upon graduation go their way to sin no more.

State schools are required to keep their charges in custody twenty-four hours of each day. We cannot expect a boy to be placed in an institution against his will and to stay there unless he has to. Artificial restraint by chains, stone walls and iron bars across the windows is injurious to any boy and especially to younger ones and may be positively dangerous. Brutality—the use of corporal punishment,—is not necessary and is only resorted to by those who are of sadistic

tendencies or whose consciousness of their own inadequacy results in irritability that they take out on the helpless persons who are in their custody. Corporal punishment in our state schools is indefensible. But if we are to avoid the use of physical restraint, constant intelligent supervision is necessary.

At Preston, Superintendent Close has developed a very interesting type of treatment in the discipline company which he is still obliged to use for some of the older boys. He permits each boy in the company to select some activity of dominant personal interest to that particular boy. It makes no difference what the boy wants to do or study, some way will be found to help him do it. It may be drawing or music, engineering, accounting or literature. The boy can make his own choice and during his leisure hours will be supplied with materials and instruction so that he can do just exactly what he wants to do. The result is that the school has few problems in this most difficult discipline group. The boys are not only happy and quiet but they often reveal talents and interests that can be developed into a life interest which leaves their former delinquency far in the background.

Some mention should be made of the problem of the psychotic and defective delinquent. There is no institution in California for psychotic juveniles. A few such cases have been sent to the Mendocino State Hospital. One sixteen-year-old boy was committed there after every other resource had failed. He was insane and had forcibly raped a twelve-year-old girl and committed many thefts. When the probation officer and I visited the institution we found him in the walled yard with about two hundred insane criminals, a fourth of whom had already committed one or more murders. Not long afterward his insanity cleared up, he was found to be feeble minded and was sent to Sonoma. A fourteen-year-old boy was recently sent up there from San Luis Obispo County because it was the only place that would accept him following an unspeakable sadistic murder of an eight-year-old girl.

For many years Sonoma State Home was the only institution where they would accept feeble-minded delinquents. One building called Paxton Hall, constructed to accommodate eighty boys, was always overflowing with one hundred or more. The more dangerous ones, due to lack of supervision, would frequently run away after a day or so in the institution and return home in very short time. Some of the younger boys whom we sent up there were reported to have been subjected to degenerate attacks at the hands of older inmates.

Additional funds have resulted in the construction of buildings to accommodate more defective delinquents at Pacific Colony in Los Angeles County and

the pressure has been somewhat relieved by the commitment of this type of case to that institution. The urge to run away is lessened by the fact that parents can occasionally visit their children there.

The budget for such state institutions is so low that adequate educational treatment is not available and the possibility of developing these handicapped children into self-supporting adults is reduced because they do not receive a type of training which is suited to their limited abilities.

An interesting sidelight on commitments to state homes for the feeble-minded is found in the fact that many older boys who were about to be committed to Sonoma or who had escaped from there begged the court to send them to Preston instead. Notwithstanding their handicap they resented the stigma of feeble-mindedness, and objected to associating exclusively with others of that class. When they had experienced a stay at Sonoma they explained in their own way that they learned nothing and had a sense of utter hopelessness. These same boys who did not get along well at Sonoma have in many instances been sent to Preston with excellent results from the standpoint of the individual boy. They worked on the farm and learned to perform simple tasks which fitted them to earn their own living later on, and felt an inspiration from better companions and better program. On the basis of results obtained it appears to be a much better investment for us to give even mentally handicapped boys a type of supervision and instruction which trains and encourages them.

AMENDMENTS TO BY-LAWS

ADOPTED NOVEMBER 26, 1940

Section 2 of Article II of the by-laws, entitled "Elections," amended to read as follows:

Section 2. NOMINATING COMMITTEE. A nominating committee consisting of fifteen members of the Association shall be elected at the regular monthly meeting of the Association held in November in each year. Candidates for the nominating committee shall be nominated from the floor at said meeting, and not otherwise. No member of the Association shall be entitled to nominate more than two (2) candidates for the nominating committee. After nominations of

members for said committee have been closed the members of the Association present at said meeting shall by ballot vote upon those nominated, and the fifteen having the highest number of votes shall thereupon constitute the nominating committee. Said nominating committee shall meet upon the call of the secretary of the Association prior to December 1st of said year, shall select its own chairman, and shall nominate one member of the Association for each of the offices of president, senior vice-president, and junior vice-president, ~~and one member of the Association for each position of trustee to be filled at the election,~~ and not less than two (2) active members for each position of trustee to be filled at the election from the active members of the Association, and one affiliated member for each position of trustee to be filled at the election from the affiliated members of the Association. The report of the nominating committee stating the names of the persons so nominated for the respective offices shall be forwarded to the secretary of the Association and shall be by him posted on the bulletin board of the County Law Library on or before December 5th of said year.

(2) Section 4 of Article II, amended to read as follows:

Section 4. BALLOTS. A ballot containing the names of the nominees for each office and with a blank "write in" space after each office shall be mailed to each member of the Association entitled to vote not later than December 31st of each year. The ballot shall be in such form and shall contain such instructions as may be prescribed by the Board of Trustees; provided that the names of all nominees for the position of trustee to be elected from the active members of the Association shall be placed in alphabetical order in a single column on the ballot with four (4) blank "write in" spaces immediately following the last name listed in such column; and provided further that each ballot shall contain instructions to the effect that each member shall be entitled to vote for as many nominees or other active members of the Association for the

position of trustee as there shall be positions of trustee to be filled at the election from the active members of the Association.

(3) It is proposed to amend section 7 of Article II, to read as follows:

Section 7. VOTES TO ELECT. A plurality of votes cast shall elect. In case two or more candidates for one office shall receive an equal number of votes, a ballot shall be taken at the first regular monthly meeting thereafter as between such candidates. Those active members equal in number to the positions of trustee to be filled at the election from the active members of the Association, who shall receive the greater number of votes, shall each be declared to be a "trustee elected from the active members of this Association" within the meaning of the provisions of section 2 of Article V of the Constitution of the Association.

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